

### **IC 12-17.2-3.5**

#### **Chapter 3.5. Eligibility of Child Care Provider to Receive Reimbursement Through Voucher Program**

### **IC 12-17.2-3.5-1**

#### **Applicability of chapter**

Sec. 1. (a) This chapter applies to all child care providers regardless of whether a provider is required to be licensed or registered under this article. However, a child care provider that is licensed under IC 12-17.2-4 or IC 12-17.2-5 is considered to be in compliance with this chapter unless the child care provider is found to be in violation of this chapter.

(b) If a school age child care program that is:

(1) described in IC 12-17.2-2-8(10); and

(2) located in a school building;

is determined to be in compliance with a requirement of this chapter by another state regulatory authority, the school age child care program is considered to be in compliance with the requirement under this chapter.

*As added by P.L.247-2001, SEC.3. Amended by P.L.18-2003, SEC.8; P.L.16-2006, SEC.2.; P.L.124-2007, SEC.4.*

### **IC 12-17.2-3.5-1.2**

#### **"Child care program"**

Sec. 1.2. As used in this chapter, "child care program" refers to the activities provided for children during the time that children are in the care of a provider.

*As added by P.L.18-2003, SEC.9.*

### **IC 12-17.2-3.5-1.3**

#### **"Employed"; "employee"; "employment"; "employs"**

Sec. 1.3. As used in this chapter, "employed", "employee", "employment", or "employs" refers to services performed by an individual for compensation. The terms do not refer to services performed by an individual who volunteers, including an individual who provides assistance and receives an allowance, a stipend, or other support under the federal Foster Grandparent Program (42 U.S.C. 66(II)(B)).

*As added by P.L.18-2003, SEC.10.*

### **IC 12-17.2-3.5-1.7**

#### **"Volunteer"; "volunteers"**

Sec. 1.7. As used in this chapter, "volunteer" or "volunteers" refers to an individual who, without compensation, provides services to a provider.

*As added by P.L.18-2003, SEC.11.*

### **IC 12-17.2-3.5-2 Repealed**

*(Repealed by P.L.18-2003, SEC.34.)*

### **IC 12-17.2-3.5-3**

**"Voucher payment"**

Sec. 3. As used in this chapter, "voucher payment" means payment for child care through the federal Child Care and Development Fund voucher program administered under 45 CFR 98 and 45 CFR 99.

*As added by P.L.247-2001, SEC.3.*

**IC 12-17.2-3.5-4****Ineligible providers**

Sec. 4. A provider who:

- (1) has been convicted of a:
  - (A) felony;
  - (B) misdemeanor related to the health or safety of a child;
  - (C) misdemeanor for operating a child care center without a license under IC 12-17.2-4-35; or
  - (D) misdemeanor for operating a child care home without a license under IC 12-17.2-5-35;
- (2) employs or otherwise allows an individual who has been convicted of a crime specified under subdivision (1) to:
  - (A) serve as a caregiver to a child in the provider's care; or
  - (B) reside with the provider, if the provider operates a child care program in the provider's home; or
- (3) fails to meet the requirements set forth in sections 5 through 12.1 of this chapter;

is ineligible to receive a voucher payment.

*As added by P.L.247-2001, SEC.3. Amended by P.L.109-2002, SEC.2; P.L.18-2003, SEC.12.*

**IC 12-17.2-3.5-4.1****Alleged perpetrators ineligible**

Sec. 4.1. (a) This section applies to the following:

- (1) A provider, if the provider is an individual.
- (2) If a provider operates a child care program in the provider's home, an individual who resides with the provider and who is at least eighteen (18) years of age.
- (3) An individual who:
  - (A) is employed; or
  - (B) volunteers;as a caregiver at the facility where a provider operates a child care program.

(b) If information used by the division under IC 31-33-17-6(7) indicates that an individual described in subsection (a) has been named as an alleged perpetrator, the following are ineligible to receive a voucher payment:

- (1) The individual.
- (2) A provider in whose home the individual resides if the provider operates a child care program in the provider's home.
- (3) A provider that:
  - (A) employs the individual; or
  - (B) allows the individual to volunteer;as a caregiver at the facility where the provider operates a child

care program.  
*As added by P.L.109-2002, SEC.3. Amended by P.L.18-2003, SEC.13.*

#### **IC 12-17.2-3.5-5**

##### **Facility requirements**

Sec. 5. A provider shall have:

- (1) working smoke detectors that meet the standards adopted by rule for smoke detectors in licensed child care homes; and
- (2) hot and cold running water;

in the area of the facility where the provider operates a child care program.

*As added by P.L.247-2001, SEC.3. Amended by P.L.131-2002, SEC.1; P.L.18-2003, SEC.14.*

#### **IC 12-17.2-3.5-5.5**

##### **Supervision of children; requirements for safe sleeping practices training**

Sec. 5.5. (a) A provider shall ensure that a child in the provider's care is continually supervised by a caregiver.

(b) A provider who operates a child care program in the provider's home (including a child care home licensed under IC 12-17.2-5) and who receives a voucher payment under this chapter shall complete the training course provided or approved by the division under IC 12-17.2-2-1(10) concerning safe sleeping practices.

*As added by P.L.18-2003, SEC.15. Amended by P.L.162-2005, SEC.2.*

#### **IC 12-17.2-3.5-6**

##### **Tuberculosis screening**

Sec. 6. (a) A provider who is an individual shall have an intradermal tuberculosis test before the provider is eligible for a voucher payment.

(b) A provider shall assure that an individual who is at least eighteen (18) years of age and:

- (1) who, if the provider operates a child care program in the provider's home, resides with the provider; or
- (2) who:
  - (A) is employed; or
  - (B) volunteers;

as a caregiver at the facility where the provider operates a child care program;

has an intradermal tuberculosis test before the individual resides with the provider or is employed or allowed to volunteer as a caregiver.

(c) A provider shall maintain documentation of an annual health assessment by a physician reflecting the results of symptom screening for tuberculosis for:

- (1) the provider, if the provider is an individual; and
- (2) an individual described in subsection (b);

who has a history of latent or active tuberculosis.

(d) A provider shall provide the results of the tests and screening required under this section to the division upon request.

*As added by P.L.247-2001, SEC.3. Amended by P.L.18-2003, SEC.16.*

#### **IC 12-17.2-3.5-7**

##### **Plans to notify parents**

Sec. 7. A provider shall have written plans for notifying parents regarding the following:

- (1) Illness, serious injury, or death of the provider.
- (2) Care in an emergency.
- (3) Emergency evacuation.

The plan required under subdivision (3) must be posted in a conspicuous location in the facility where the provider operates a child care program.

*As added by P.L.247-2001, SEC.3. Amended by P.L.18-2003, SEC.17.*

#### **IC 12-17.2-3.5-8**

##### **Certifications required**

Sec. 8. (a) At least one (1) adult individual who maintains annual certification in a course of cardiopulmonary resuscitation applicable to all age groups of children cared for by a provider shall be present at all times when a child is in the care of the provider.

- (b) An individual who:
- (1) is employed; or
  - (2) volunteers;

as a caregiver at a facility where a provider operates a child care program shall maintain current certification in first aid applicable to all age groups of children cared for by the provider.

*As added by P.L.247-2001, SEC.3. Amended by P.L.47-2002, SEC.1; P.L.18-2003, SEC.18.*

#### **IC 12-17.2-3.5-9**

##### **Telephones**

Sec. 9. A provider shall have at least one (1) working telephone in each facility where the provider operates a child care program.

*As added by P.L.247-2001, SEC.3. Amended by P.L.18-2003, SEC.19.*

#### **IC 12-17.2-3.5-10**

##### **Fire safety requirements**

Sec. 10. (a) A facility where a provider operates a child care program must have two (2) exits that:

- (1) do not require passage through a:
  - (A) garage; or
  - (B) storage area;where hazardous materials are stored;
- (2) are not windows;
- (3) are on different sides of the facility;

- (4) are not blocked; and
- (5) are operable from the inside without the use of a key or any special knowledge.
- (b) A provider shall:
  - (1) conduct monthly documented fire drills:
    - (A) in accordance with the rules of the fire prevention and building safety commission; and
    - (B) that include complete evacuation of all:
      - (i) children; and
      - (ii) adults who provide child care; in the facility;
  - (2) maintain documentation of all fire drills conducted during the immediately preceding twelve (12) month period, including:
    - (A) the date and time of the fire drill;
    - (B) the name of the individual who conducted the fire drill;
    - (C) the weather conditions at the time of the fire drill; and
    - (D) the amount of time required to fully evacuate the facility; and
  - (3) maintain a two and one-half (2 1/2) pound or greater ABC multiple purpose fire extinguisher:
    - (A) on each floor of the facility; and
    - (B) in the kitchen area of the facility;

in each facility where the provider operates a child care program.  
*As added by P.L.247-2001, SEC.3. Amended by P.L.131-2002, SEC.2; P.L.18-2003, SEC.20.*

## **IC 12-17.2-3.5-11**

### **Items inaccessible to children**

Sec. 11. A provider shall provide for a safe environment by ensuring that the following items are placed in areas that are inaccessible to the children in the provider's care:

- (1) Firearms and ammunition.
  - (2) Poisons, chemicals, bleach, and cleaning materials.
- As added by P.L.247-2001, SEC.3.*

## **IC 12-17.2-3.5-11.1**

### **Immunizations**

Sec. 11.1. (a) After December 31, 2002, a provider shall maintain and annually update documentation provided by the physician of each child who is cared for in a facility where the provider operates a child care program that the child has received complete age appropriate immunizations, including:

- (1) conjugated pneumococcal vaccine; and
  - (2) varicella vaccine or a demonstrated immunity to varicella.
- The state department of health shall determine for each age level the immunizations that constitute complete age appropriate immunizations.

- (b) A provider meets the requirement of subsection (a) if:
  - (1) a child's parent:
    - (A) objects to immunizations for religious reasons; and

(B) provides documentation of the parent's objection;  
(2) the child's physician provides documentation of a medical reason the child should not be immunized; or  
(3) the child's physician provides documentation that the child is currently in the process of receiving complete age appropriate immunizations;  
and the provider maintains and annually updates the documentation provided by the parent or physician under this subsection.  
*As added by P.L.121-2002, SEC.1 and P.L.131-2002, SEC.3.  
Amended by P.L.18-2003, SEC.21.*

#### **IC 12-17.2-3.5-12**

##### **Limited criminal histories; temporary eligibility; exceptions**

Sec. 12. (a) Except as provided in subsection (f), a provider shall, at no expense to the state, maintain and make available to the division upon request a copy of a limited criminal history for:

- (1) the provider, if the provider is an individual;
- (2) if the provider operates a child care program in the provider's home, any individual who resides with the provider and who is:
  - (A) at least eighteen (18) years of age; or
  - (B) less than eighteen (18) years of age but has previously been waived from juvenile court to adult court; and
- (3) any individual who:
  - (A) is employed; or
  - (B) volunteers;as a caregiver at the facility where the provider operates a child care program.

A provider shall apply for a limited criminal history for an individual described in subdivision (3) before the individual is employed or allowed to volunteer as a caregiver.

(b) In addition to the requirement under subsection (a), a provider shall report to the division any:

- (1) police investigations;
- (2) arrests; and
- (3) criminal convictions;

not listed on a limited criminal history obtained under subsection (a) regarding any of the persons listed in subsection (a).

(c) A provider that meets the other eligibility requirements of this chapter is temporarily eligible to receive voucher payments until the provider receives the limited criminal history required under subsection (a) from the state police department if:

- (1) the provider:
  - (A) has applied for the limited criminal history required under subsection (a); and
  - (B) obtains a local criminal history for the individuals described in subsection (a) from each individual's local law enforcement agency before the individual is employed or allowed to volunteer as a caregiver; and
- (2) the local criminal history does not reveal that an individual has been convicted of a:

- (A) felony;
- (B) misdemeanor related to the health or safety of a child;
- (C) misdemeanor for operating a child care center without a license under IC 12-17.2-4-35; or
- (D) misdemeanor for operating a child care home without a license under IC 12-17.2-5-35.

(d) A provider is ineligible to receive a voucher payment if an individual for whom a limited criminal history is required under this section has been convicted of a:

- (1) felony;
- (2) misdemeanor related to the health or safety of a child;
- (3) misdemeanor for operating a child care center without a license under IC 12-17.2-4-35; or
- (4) misdemeanor for operating a child care home without a license under IC 12-17.2-5-35;

until the individual is dismissed from employment or volunteer service at the facility where the provider operates a child care program or no longer resides with the provider.

(e) A provider shall maintain a written policy requiring an individual for whom a limited criminal history is required under this section to report any criminal convictions of the individual to the provider.

(f) The state police department may not charge a church or religious society any fees or costs for responding to a request for a release of a limited criminal history record of a prospective or current employee or a prospective or current volunteer of a child care ministry registered under IC 12-17.2-6 if the conditions set forth in IC 10-13-3-36(f) are met.

*As added by P.L.247-2001, SEC.3. Amended by P.L.109-2002, SEC.4; P.L.18-2003, SEC.22; P.L.6-2004, SEC.1; P.L.142-2006, SEC.2.*

### **IC 12-17.2-3.5-12.1**

#### **Drug testing**

Sec. 12.1. (a) A provider shall, at no expense to the state, maintain and make available to the division upon request a copy of drug testing results for:

- (1) the provider, if the provider is an individual;
- (2) if the provider operates a child care program in the provider's home, any individual who resides with the provider and who is at least eighteen (18) years of age; and
- (3) an individual who:
  - (A) is employed; or
  - (B) volunteers;

as a caregiver at the facility where the provider operates a child care program.

The drug testing results for an individual described in subdivision (3) must be obtained before the individual is employed or allowed to volunteer as a caregiver.

(b) A provider that is not a child care ministry or a child care

center shall maintain a written policy specifying the following:

(1) That the:

(A) use of:

(i) tobacco;

(ii) alcohol; or

(iii) a potentially toxic substance in a manner other than the substance's intended purpose; and

(B) use or possession of an illegal substance;

is prohibited in the facility where the provider operates a child care program when child care is being provided.

(2) That drug testing of individuals who serve as caregivers will be:

(A) performed based on a protocol established or approved by the division; and

(B) required if an individual is suspected of noncompliance with the requirements specified under subdivision (1).

(c) A provider that is a child care ministry or a child care center shall maintain a written policy specifying the following:

(1) That the:

(A) use of:

(i) tobacco; or

(ii) a potentially toxic substance in a manner other than the substance's intended purpose; and

(B) use or possession of alcohol or an illegal substance;

is prohibited in the facility where the provider operates a child care program when child care is being provided.

(2) That drug testing of individuals who serve as caregivers will be:

(A) performed based on a protocol established or approved by the division; and

(B) required if an individual is suspected of noncompliance with the requirements specified under subdivision (1).

(d) If:

(1) the drug testing results obtained under subsection (a), (b), or (c) indicate the presence of a prohibited substance described in subsection (b)(1)(A)(ii), (b)(1)(A)(iii), (b)(1)(B), (c)(1)(A)(ii), or (c)(1)(B); or

(2) an individual refuses to submit to a drug test;

the provider is ineligible to receive a voucher payment until the individual is suspended or terminated from employment or volunteer service at the facility or no longer resides with the provider.

(e) A provider that suspends an individual described in subsection (d) shall maintain a written policy providing for reinstatement of the individual following rehabilitation and drug testing results that are negative for a prohibited substance described in subsection (b)(1)(A)(ii), (b)(1)(A)(iii), (b)(1)(B), (c)(1)(A)(ii), or (c)(1)(B).

(f) Drug testing results obtained under this section are confidential and may not be disclosed for any purpose other than the purpose described in this section.

*As added by P.L.109-2002, SEC.5. Amended by P.L.18-2003,*



*SEC.23; P.L.6-2004, SEC.2; P.L.16-2006, SEC.3.*

#### **IC 12-17.2-3.5-13**

##### **Local step ahead councils**

Sec. 13. A local step ahead council may not require a child care ministry to meet any minimum standards in addition to the standards described in this chapter unless the additional standards are approved by the:

- (1) general assembly; or
- (2) division.

*As added by P.L.247-2001, SEC.3.*

#### **IC 12-17.2-3.5-14**

##### **Administrative review**

Sec. 14. (a) Notice of a determination made under this chapter must be provided under IC 4-21.5-3-6.

(b) A person affected by a determination made under this chapter may seek administrative review under IC 4-21.5-3-7.

*As added by P.L.109-2002, SEC.6.*

#### **IC 12-17.2-3.5-15**

##### **Rulemaking**

Sec. 15. The division shall adopt rules under IC 4-22-2 to implement this chapter.

*As added by P.L.18-2003, SEC.24.*